



## **Town of Barrington**

### **Human Resource Department**

### **Family and Medical Leave Policy**

The Town of Barrington complies with the Family and Medical Leave Act implementing Regulations as revised effective January 16, 2009. The Town posts the mandatory FMLA Notice required by the U.S. Department of Labor on Employee Rights and Responsibilities under the Family and Medical Act in the break room located at Barrington Town Hall as well as at the Department of Public Works, Library and Police and Fire Safety Complex.

If you have any questions, concerns or disputes, please contact the Human Resource Department in writing.

#### **Purpose**

Under this policy, the Town of Barrington will grant up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness) during a 12-month period to eligible employees. The leave may be paid, unpaid or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy.

#### **RI Parental and Federal Family Medical Leave**

The **Rhode Island Parental and Family Medical Leave Act** requirement states that every employee who has been employed by the same employer for 12 consecutive months shall be entitled, upon advanced notice to his or her employer, up to thirteen (13) consecutive work weeks of parental leave or family leave in any two (2) calendar years.

The **Federal Family and Medical Leave Act ("FMLA")** guarantees eligible employees the right to unpaid leaves of absence for the birth of, the placement with the employee of a child for adoption, or foster care of a child, military family leave and the "serious health condition" of the employee or his or her spouse, child, or parent.

FMLA leave is available for up to 12 weeks in any 12-month period. Employees who have been employed a total of 12 months and have actually worked a total of 1,250 hours in the 12 months preceding the beginning of the leave qualify for FMLA leave. The Town must pay the employers share of health insurance premiums during the leave, while the employee must pay the employee's share of the premium. The employee may be required to reimburse the Town if he/she fails to return at the end of the leave. In addition, FMLA allows "reduced schedule" and "intermittent" leaves but not for birth, newborn care or placement for adoption or foster care.

An employee is assured reinstatement to his or her old job or an equivalent position, without loss of seniority or any benefits earned before commencement of the leave, if the employee returns within the legal time limits and if there have been no layoffs, etc., in the meantime.

## **Policy**

### **Eligibility**

In order to be eligible for family or medical leave you must (1) have been employed by the Town for at least 12 months, and (2) have actually worked at least 1,250 hours in the 12 months preceding your leave and (3) have not depleted the 12 weeks allowable under the FMLA during the last 12 months.

### **What Reasons Qualify for Leave?**

You may take leave for the following reasons:

1. The birth of a child or placement with the employee of a child for adoption or foster care of a child 18 years old or younger and to care for the child including children over 18 who are incapable of self care.
2. Because of your own “serious health condition”.
3. To care for your spouse, child, or parent, “family member(s)” because of a “serious health condition” of that family member.
4. To address certain qualifying exigencies when a spouse, son, daughter or parent is on active duty or called to activity duty.
5. FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period.

### **What is a “Serious Health Condition”?**

An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee’s position.

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in a school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

## **Use of Leave**

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the company's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

The number of leave hours in the 12-week period depends upon the employee's scheduled workweek. For example, a full time employee that works 40 hours per week is eligible for 480 hours of FMLA leave (12 weeks at 40 hours per week).

## **Employee Responsibilities**

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, you must provide notice as soon as practicable and generally must comply with the Town's normal call-in procedures.

You must inform your department head if the requested leave is for a reason for which FMLA leave was previously taken or certified. You also may be required to provide a certification and periodic recertification supporting the need for leave.

An employee who takes leave under this policy may be asked to provide a fitness for duty clearance from the health care provider. This requirement will be included in the Town's response to the FMLA request. Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay benefits and other employment terms. The Town may choose to exempt certain key employees from this requirement and not return them to the same or similar position.

## **Designation of FMLA Leave**

Within five business days after the employee has submitted the appropriate certification form, the HR Department will complete and provide the employee with a written response to the employee's request for FMLA leave using the DOL Designation Notice (WH-382).

## **What Procedures are Required to Qualify for Leave?**

Your request should be made to your Department Head and/or Human Resources, either verbally or, if you prefer, in writing. Be sure to explain the reasons for your leave (example: birth or placement of a child, because of your own serious health condition, to care for a qualifying family member with a serious health condition, to address qualifying exigencies when a spouse, son, daughter or parent is on active duty or called to active duty or to care for a covered service member during a single 12 month period) and the anticipated duration. Your Department Head will then notify the Human Resources Department and you will be asked to sign a form explaining the nature of your leave and your rights and obligations if the leave is approved. You will be informed in writing whether your leave has been approved.

If the need for your leave is foreseeable, you must make your request at least 30 days before the leave is to begin. If 30 days notice is not possible, you must make your request as soon as practicable, within one or two workdays of the time you discover the need for leave.

Requests for extensions of leaves should be made directly to the Human Resources Department and must be made within one or two workdays after the need for the extension is known and, in any event, prior to expiration of your approved leave.

Failure to request a leave in a timely fashion may result in denial of the leave and termination of employment. Prior to approval of any leave for your own “serious health condition” or for the “serious health condition” of a “family member”, you must submit a medical certification form signed by a health care provider. This certification must be submitted as soon as possible. A delay of more than 15 days may result in denial of your leave. We reserve the right to require certification from a provider of our own choice, and, in the event of a disagreement, to refer the matter to a third provider for a final resolution.

Leaves related to serious health conditions will not be approved for periods longer than that certified by the health care provider(s). In the event that a definite return date cannot be specified, the leave will be approved only for a period ending one calendar week after your next scheduled appointment with the provider. If your approved leave exceeds 30 days, you must provide a medical re-certification of the continued need for the leave every 30 days.

If the leave is due to your own “serious health condition” and is 5 days or longer, you will also be required to furnish us with medical certification of your fitness to return to work prior to returning.

### **Medical Certification**

Employees may be required to obtain certification regarding the nature of the condition, either for themselves or family member, the date it began, and its expected duration. The employee may be required to provide periodic status updates and provide a medical release upon the employee’s return to work. Medical certification will be provided to the HR Department using the DOL Certification of Health Care Provider for Employee’s Serious Health Condition (form WH-380E) or the DOL Certification of Health Care Provider for Family Member’s Serious Health Condition (form WH-380F).

The Town of Barrington may request recertification for the serious health condition of the employee or the employee’s family member no more frequently than every 30 days.

### **“What Relatives are Covered?”**

“Spouse” means a legal wife or husband.

“Child” means a biological child, a stepchild, a legally adopted child, a foster child (pursuant to an agreement with the state), a legal ward, or a child for whom you have the day-to-day

responsibility for care and financial support (“in loco parentis”). A child must be under the age of 18 unless he or she is incapable of self-care because of a mental or physical disability.

“Parent” means a biological parent or a person who was in loco parentis to you when you were a child.

### **Calculation of Available Leave**

You have the legal right, under FMLA to take up to a total of 12 weeks of leave for the reasons described above in any 12-month period. You have the right under the Rhode Island Parental and Family Medical Leave Act to take up to a total of 13 consecutive workweeks of parental leave or family leave in any two calendar years. These entitlements are in the aggregate. The “leave year” is determined on a “rolling 12-month basis measured backward from the date the employee uses any family/medical leave”. Thus, each time an employee takes leave, the Town will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

The number of weeks of leave to which you are legally entitled includes all types of statutory leave and leave that qualifies under both FMLA and State Law will be counted towards your entitlement under both laws.

### **What Is “Intermittent Leave” and “Reduced Schedule Leave?”**

FMLA permits employees to take “intermittent leave” or “reduced schedule leave”, under certain circumstances, because of their own or a family member’s serious illness.

“Intermittent Leave” involves leave taken in separate blocks of time for the same illness. Normally, it would be used for doctor’s appointments or for periodic treatments (e.g., physical therapy or chemotherapy.)

“Reduced Schedule Leave” involves a reduction in your daily or weekly hours of work, and would usually be available only when your physician so requires.

If you request intermittent or reduced schedule leave, we may require you to transfer temporarily to an alternative position, if available, for which you are qualified and which provides equivalent pay and benefits, in order to accommodate your schedule or our needs.

Leaves of this type will be counted (pro rated based on your regular schedule) towards statutory entitlements and are not available for birth, adoption or foster care.

### **Employee Benefits During Leave**

While an employee is on leave, the Town will continue the employee’s health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

When your leave is approved, you will receive instructions on how to pay your share of health insurance premiums. We reserve the right to deduct your share of health insurance premiums from any pay that may be due you during, or at the end of your leave. If you fail to pay your share during your leave, within 30 days of the due date, we may cancel your insurance, after 15 days notice and after notifying you of your COBRA rights.

If you fail to return to work at the end of your leave for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, you may be liable to the Town for any health insurance premiums paid on your behalf. We may deduct amounts owed from any final paycheck and/or pursue other legal remedies to collect those amounts.

### **Use of Paid and Unpaid Leave**

FMLA affords you the right to use earned vacation days for any type of qualified leave. The law also allows the employer to require the use of paid time during statutory leaves. We have selected the following rules:

If a leave involves your own or a "family member's" "serious health condition" (including periods of disability caused by pregnancy and/or delivery), you will be required to exhaust all accrued sick, vacation and personal leave balances as appropriate, prior to going on unpaid leave.

### **Intent to Return to Work**

Under FMLA, you are entitled to reinstatement to your old job, or a comparable position. Reinstatement will include full seniority, to the date your leave began; as well as all other benefits accrued at that time.

Your reinstatement rights will be determined by aggregating the amount of leave for all purposes (disability, family and parental) in each leave year.

Failure to return to work at the end of your leave may result in termination of your employment.

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| Federal and State laws that impact this policy are subject to change. For this reason, the Town of Barrington reserves the right to change this policy at any time and at its sole discretion. |
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## ACKNOWLEDGEMENT AND CERTIFICATION

I hereby acknowledge and certify that I have received a copy of the Town of Barrington's Family Medical Leave Act Policy.

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Employee Name

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Employee Signature

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Witness Signature

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Date

Original acknowledgement and certification to be kept on file with employer. Copy of the acknowledgment and certification to employee.